

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 PHILLIP SMITH,

Case No.: 2:14-cv-00483-JAD-NJK

4 Petitioner

ORDER

5 v.

[ECF Nos. 52, 56]

6 F.N.U. COLLINS, et al.,

7 Respondents

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9 This 28 U.S.C. § 2254 habeas matter comes before the court on counsel for petitioner
10 Phillip Smith's motion to withdraw (ECF No. 52). Counsel explains that he has been elected
11 District Attorney of Nye County, Nevada. Good cause appearing, the motion to withdraw is
12 granted.

13 The court's Criminal Justice Act designee has located counsel who is willing to be
14 appointed to represent petitioner herein:

15 Mark Eibert
16 P.O. Box 1126
17 Half Moon Bay, CA 94109
 650-638-2380

18 Mr. Eibert is thus appointed as substitute counsel for petitioner in place of Chris Arabia for all
19 future proceedings.

20 Mr. Eibert filed a motion for extension of time/request for scheduling order (ECF No.
21 56). He seeks time to determine whether an amended petition should be filed. However, Eibert
22 is the third lawyer appointed to represent petitioner in this matter, which was filed in 2014.
23 Previous counsel filed a second-amended petition, and a motion to dismiss as well as a motion

1 for stay have been litigated. In fact, the second-amended petition stands fully briefed for a
2 decision on the merits. Therefore, the motion for scheduling order is denied.

3 **IT IS THEREFORE ORDERED** that counsel Chris Arabia's motion to withdraw as
4 attorney (**ECF No. 52**) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that **Mark Eibert, Esq. is appointed to represent**
6 **petitioner Smith.** Mr. Eibert is a Criminal Justice Act (CJA) panel attorney for the United
7 States District Court, District of Nevada. Mr. Eibert will represent petitioner in all future
8 proceedings in this court relating to this matter (including subsequent actions) and appeals
9 therefrom under 18. U.S.C. Section 3006A (a)(2)(B), until allowed to withdraw.

10 **IT IS FURTHER ORDERED** that petitioner's motion for extension of time re
11 scheduling order (**ECF No. 56**) is **DENIED**.

12 Dated: March 5, 2019

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14 Jennifer A. Dorsey
15 U.S. District Judge
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